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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/632,892 | ELZINGA ET AL. | |
| | Examiner | Art Unit | |
| | ROBERT J. UTAMA | 3715 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *01/16/2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-5,8,9,12,14-37,39-55,57-63,65 and 67-70* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,8,9,12,14-37,39-55,57-63,65 and 67-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

**DETAILED ACTION**

***Status of the application***

1. This is a response to the amendment and argument filed on 01/29/2009. The current status of the application is as follows: claims 1-5, 8-9, 12, 14-37, 39-55, 57-63, 65 and 67-70 are still pending. Claims 6-7, 10-11, 13, 38, 56, 64 and 66 have been cancelled.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**3. Claims 1-5, 8-9, 14-21, 23, 25, 27-29, 31, 33-34, 39-43, 47-48, 50-52, 58-59, 61—63, 65, and 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs US 7,029,280, in view of Parry US 6,077,085 and further in view of Turner US 6,633,742**

**Claims 1, 50, 58 and 61:** The Krebs reference provides a teaching of providing dynamic continual improvement educational improvements that is tailored to an individual learner the method comprising: using a user interface and graphical design technique to design an adaptive educational path (see Krebs col. 12:39-45) wherein the adaptive educational path comprises of dynamic educational content and a plurality of educational activities for presentation to a learner (see col. 4:10-25 "training, simulation or a test") wherein the dynamic educational content are separate and independent from the plurality of educational activities (se col. 3:40-45) wherein the educational technique produces computer readable medium relating to the dynamic content (Krebs col. 1:56-61) and wherein aspect of the educational content are associated in a relational order even when an aspect of the educational content are moved (see Krebs '280 col. 12:39-45, col. 5:10-22, col. 6:49-62 and FIG.2); providing a portion

of the adaptive educational path for presentation of at least a portion of the educational portion of the education content to a particular learner (see col. 19:25-32); obtaining and automatically analyzing a learner performance data of the particular learner while providing the adaptive educational path wherein the learner performance data is obtained and analyzed by the system (see col. 18:10-19:32).

While the Krebs reference provides a teaching of obtaining and automatically analyzing learner performance data of a particular user, wherein the learner performance data is obtained and analyzed by the system to cause the system of to automatically and adaptively sequence the dynamic education content for a particular user based upon the learner performance data obtained and analyzed by the system, wherein the adaptive sequencing comprises modifying the presentation of the educational content to the particular user based upon the learner performance data (col. 18:10-19-32 "the decision to visit a vertex (showing a learning object) is decided based on a user's competence or score"); the Krebs reference fails to provide a teaching of using the system that automatically and adaptively customize the educational path to the particular learner wherein the customizing of the educational path comprises of: identifying which portions of the educational content and the educational activities are to be combined and presented with to the learner based upon the learner performance data obtained and analyzed by the system; combining the identified portions of the educational content and the educational activities and sequencing the combined educational content and activities for the learner based upon the performance data obtained and analyzed by the system wherein the sequencing comprises modifying the combination of the educational content and activities based upon the learner performance data and providing portions of the educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content.

The Turner reference provides a teaching of teaching of using the system that automatically and adaptively customize the educational path to the particular learner wherein

the customizing of the educational path comprises of: identifying which portions of the educational content and the educational activities are to be combined and presented with to the learner based upon the learner performance data obtained and analyzed by the system (see col. 18:30-49); combining the identified portions of the educational content and the educational activities and sequencing the combined educational content and activities for the learner based upon the performance data obtained and analyzed by the system wherein the sequencing comprises modifying the combination of the educational content and activities based upon the learner performance data (see Turner col. 15:30-60). Therefore, it would have been obvious for one of ordinary skilled in the art to include the feature of teaching of using the system that automatically and adaptively customize the educational path to the particular learner wherein the customizing of the educational path comprises of: identifying which portions of the educational content and the educational activities are to be combined and presented with to the learner based upon the learner performance data obtained and analyzed by the system; combining the identified portions of the educational content and the educational activities and sequencing the combined educational content and activities for the learner based upon the performance data obtained and analyzed by the system wherein the sequencing comprises modifying the combination of the educational content and activities based upon the learner performance data, as taught by Turner in order to insure that the learner is exposed with the proper learning material (see Abstract).

The Parry reference provides a teaching providing portions of the educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content (Parry col. 3:47-64), Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claims 2, 51, 59 and 62:** The Krebs reference provides a teaching of adaptive sequencing is ordered based upon a characteristic particular user, said characteristic is at least one of the learning progress of the user (see Krebs col. 19:55-32 "test score" being used to marked which learning object vertex to be shown).

**Claims 3, 5 and 20:** The Krebs reference fails to provide a teaching of presentation of a portion of presentation of the user composed of a step to provide systematic spaced review are based on user's performance and where the performance are correspond to user's speed or accuracy. However, the Parry '085 reference provide a teaching where the presentation of a portion of presentation of the user composed of a step to provide systematic spaced review are based on user's performance and where the performance are correspond to user's speed or accuracy (see Parry '085 abstract and col. 2:65 – 3:2). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claim 4:** The Krebs reference fails to provide a teaching of portion of presentation of the user composed of a step to provide systematic spaced review is based on minimum and maximum delay of the review and such parameters are selectively adjustable by the designer. However, the Parry '085 provide a teaching where the presentation of a portion of presentation of the user composed of a step to provide systematic spaced review is based on minimum and maximum delay of the review and such parameters are selectively adjustable by the designer (see Parry '085 abstract and col.2:65 – 3:2). Parry et al also provide a teaching where the delay in the spaced review method is based on a maximum (several days) or minimum delay (1 day)

[see Parry '085 col. 20:19-22]. It is not known if these parameters are adjustable by the designer. However, the examiner takes the position that the determination of such parameter would always reside on the hand of a designer. Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claims 8-9:** Krebs provides a teaching where the design technique comprise of a drag-and-drop technique that graphically relates components of the educational component and association comprises of linking available components of the educational content based on specific properties of the component (Krebs '280 col.14:4-11). Krebs also provides a teaching of modifying properties of the available component (Krebs '280 col. 13:60-67). Therefore, it would have been obvious to include the features of a drag-and-drop technique that graphically relates components of the educational component, association comprises of linking available components of the educational content based on specific properties of the component and modifying properties of the available component into the system of Parry '085 because it would enable the author to design a course in an intuitive straightforward manner (Krebs col. 1:48-53).

**Claims 14 and 15:** Krebs fails to provide a teaching where the adaptive educational path provides an order for concepts to be learn by the user [Claim 14] and the path comprises of a linear sequence of activity [Claim 15] (see Krebs col. 6:50-60)

**Claim 16:** Krebs provides a teaching where a flow educational activity includes one or more stage marker (new stage, test stage) that delineates meaningful stages of learning (col. 6:55 "Basic concepts").

**Claims 17 and 68:** Parry and Krebs fail to provide a teaching of automatically snapping activity icons to a grid.

The examiner's previous statement that the feature of automatically snapping activity icons to a grid as being old and well known in the art of document processing and design has been taken to be admitted prior art (see previous office action). Therefore, it would have been obvious to include the feature of automatically snapping activity icons to a grid into the system of Parry and Krebs since it would allow the author design in a fluid manner.

**Claims 18 and 67:** Krebs provides a teaching where an author can develop an adaptive education path by developing a series of activity icon into a flow of activities (Krebs '280 col. 12:39-45 and FIG. 11). Therefore, it would have been obvious to include the feature of developing an adaptive education path by developing a series of activity icon into a flow of activities, as taught by Krebs '280, within the system of Parry '085 because it would enable the author to design a course in an intuitive straightforward manner (Krebs col. 1:48-53).

**Claims 19 and 69:** Krebs '280 provides a teaching of graphical user interface that is used to describe the flow of a course activity (see Krebs '280 FIG. 11 item labeled as "knowledge unit" and col. 2:55-3:15). These knowledge units contain other activities that branch to other learning material (see Krebs '280 FIG. 2 and col. 4:25-34), that would maintain their relationship when they are moved (col. 4:59-63).

**Claims 21 and 43:** Krebs fails to provide a teaching of for designing an averment that includes a look and feel that is customized to a particular audience. Parry '085 provides a teaching for designing an environment that includes a look and feel that is customized to a particular audience (e.g. via videodisc or audio recording) (see 3:36-51). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claim 23:** Krebs fails to provide a teaching of an interface and design technique that automatically analyzes data to identify the association. Parry '085 provide a teaching for an interface and design technique to automatically analyzes data to identify the association (Parry col. 6:59-67). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claim 25: The** Krebs provides an explicit teaching of designing a lesson via the use of a GUI (see Krebs col. 12:39-45).

**Claim 27:** Krebs fails to provide a teaching of identifying the current activity of a user Parry '085 provide a teaching automatically identifying the current activity of the user, keeping track of the user's learning progress and automatically determine the next activity to the user (see Parry '085 abstract, col. 3:25-30, col. 3:60-67 and FIG. 15). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claim 28:** The Krebs reference provides a teaching where the end of the activity the system will make a decision to present the next material or provide lesson. Parry '085 provide a teaching of upon the end of an activity the system will make a decision (or branch) whether to present next material or provide review lessons (col. 3:2-9 and col. 18:51-60). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the

leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claims 29 and 33:** The Krebs reference of automatically identifying the current activity of the user providing assistance and another adaptive path if the material is understood. Parry '085 provide a teaching automatically identifying the current activity of the user, providing assistance if the material is not understood, and providing another adaptive path if the material is understood (see Parry '085 abstract, col. 3:2-9). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claims 34 and 48:** The Krebs reference fails to provide a teaching of where the frequency of the presentation of certain material is modified based on the learning rate of the student. However, the Parry '085 provides a teaching where the frequency of the presentation of certain educational material is modified based on the learning rate of the student [**Claim 34**] (Parry '085 col. 3:1-10). Materials that are deemed to be difficult are given more priorities (shown more) and materials that are deemed to be mastered are given fewer priorities (shown less) [**Claim 48**] (see Parry col.3:9-20]. Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claims 31 and 47:** The Krebs reference fails to provide a teaching where the system record and report a user's progress. However, the Parry '085 provides a teaching where the system records and reports a user's progress (col. 10:58-63). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claim 37:** Krebs '280 provides a teaching where the lesson objects also have a hierarchical order (see Krebs 280 fig. 11).

**Claims 39 and 40:** The Krebs reference fails to provide a teaching of allowing the designer to determine the type of information to be tracked and one of that information being a time period. Parry '085 provide teachings where the designer is allowed to determined the type information to be tracked and one of those information is the time period (col. 2:65-col.3:2). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claim 41:** Krebs '280 provides a teaching where the component module is tagged using metadata such that these components are re-usable for creating other learning objects (col. 4:53-67).

**Claim 42:** Krebs '280 provides a teaching where the knowledge unit to be represented by various electronic output layout format (col. 4:25-34).

**Claim 52:** Krebs '289 provides a teaching where the graphical user interface is used to design an adaptive educational path, where different learning strategies have it own path (Krebs '280 col. 2:50-55).

**Claim 63:** The Krebs reference fails to provide a teaching where the presentation of a portion of presentation of the user composed of a step to provide systematic spaced review. Parry '085 provides a teaching where the presentation of a portion of presentation of the user composed of a step to provide systematic spaced review (see Parry '085 abstract and col.2:65 – 3:2). The spaced review parameters are controlled at least by the user accuracy or speed of understanding (see Parry '085 abstract). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**Claim 65:** The Krebs reference fails to provide a teaching that the relational association is between components of educational content and is based on specific topic and subtopic. However, the Parry '085 provide a teaching that the relational association is between components of educational content and is based on specific topic and subtopic (see Parry '085 sub-topic and orientation col. 11:45-55). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of educational content for iterative presentation to the learner over an extended period of the time to maintain the leaner understanding of the educational content, as taught by Parry, in order to insure that the user is familiar with the newly learned concept (see col. 2:60-68).

**4. Claims 12, 53-55 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs US 7,029,280, in view of Parry US 6,077,085, in view of Turner US 6,663,742 and further in view of Rukavina 2002/0188583**

**Claim 12:** Parry '085 and Krebs '280 fail to provide a teaching where the interface and design technique also comprises of dynamically linking roles between users of the activity.
Rukavina '583 provide a teaching of a system that provides collaborative activity among user and linking the roles of the users in the activity (see paragraph [0040]). Therefore it would have been obvious to include the teaching of providing a collaborative activity among user and linking the roles of the users in the activity, as taught by Rukavina, into the system of Parry '085 in order to provide a method to discuss real-application of their knowledge.

**Claims 53, 54 and 55:** Parry '085 and Krebs '280 fails to provide a teaching where the computer is configured to exchange information between two computers [**Claim 53**], where the communication mechanism is a network [**Claim 54**], and specifically that the network is the Internet [**Claim 55**].

**Claim 57:** Parry, Krebs and Rukavina fail to provide a teaching of automatically snapping activity icons to a grid.
However feature of automatically snapping activity icons to a grid since this feature has been determined to be old and well known in the art of document processing and design (see office action dated 02/29/2008). Therefore, it would have been obvious to include the feature of automatically snapping activity icons to a grid into the system of Parry and Krebs since it would allow the author design in a fluid manner.

**5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs US 7,029,280, in view of Parry US 6,077,085, in view of Turner US 6,663,742 and further in view of Jensen US 6,834,276.**

**Claim 22:** The Krebs reference provides a teaching of graphically associating educational concept types with relationship types and properties (see FIG 3 col. 6:45-55); automatically add new educational content from outside resources (see col. 11:50-65); selectively tag education portions of a particular lessons to illustrate to the particular learner different contextual uses of the educations portions (see FIG 9 and col. 11:45-65). The Krebs reference lack teaching for the feature of selectively cutting an audio files into a smaller files that are named and preserved; modifying the start and end position of a selected audio files; utilizing repository media for designing the educational content and graphically identifying potential presentation problem corresponding to the educational content. However, the Gleissner reference provides a teaching of selectively cutting an audio files into a smaller files that are named and preserved (see paragraph 50-51); modifying the start and end position of a selected audio files (see paragraph 60-62) and utilizing repository media for designing the educational content (see paragraph 18-19). Therefore, it would have been obvious to one of ordinary skilled in the art to include the feature of teaching of selectively cutting an audio files into a smaller files that are named and preserved modifying the start and end position of a selected audio files and utilizing repository media for designing the educational content, in view of Gleissner, in order to insert multimedia presentation to the learning content (see paragraph 4-5).

The Jensen reference provides a teaching of graphically identifying potential presentation problem corresponding to the educational content (see Jensen col. 21:45-65). Thus it would have been recognized by one of ordinary skilled in the art that applying the known technique taught by Jensen into the course editor of Krebs would have yielded predictable results and resulted in an improved system, namely, a system that would be able to inform the user if certain files or part of the database is corrupted and needed repair (see col. 21:60-65).

**6. Claims 24, 26, 60 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs US 7,029,280, in view of Parry US 6,077,085 and further in view of Turner US 6,633,742 and further in view of Kershaw 5,565,316**

**Claimss 24, 26, 60 and 70:** Parry and Krebs fails to provide a teaching where automated test are executed to ensure that components function as designed and diagnosing errors in the components [**Claim 24, 60, 70]** and detecting any potential problem for repair [**Claim 26**]. However, Kershaw '316 provides a teaching of having a quality assurance test, which can diagnose error and detect any potential problem for repair (Col.28:4-18). Therefore, it would have been obvious to include the feature of having a quality assurance test which can diagnose error and detect any potential problem for repair, as taught by Kershaw '316, in order to assure the quality of the test component.

**7. Claims 30 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs US 7,029,280, in view of Parry US 6,077,085 and further in view of Turner US 6,633,742 and further in view of Jenkins US 6, 293,801.**

**Claims 30 and 49:** Parry and Krebs fails to provide a teaching where the system automatically provides positive feedback to the user.

Jenkins 801 provides a teaching where the user is given a positive feedback (col. 3:14-28). Therefore, it would have been obvious to include the feature of giving a positive feedback to the user of the system, as taught by Jenkins, into the system of **Parry** in order to indicate and award user for giving a correct response.

**8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs US 7,029,280, in view of Parry US 6,077,085 and further in view of Turner US 6,633,742 and further in view of Strub et al 6,652,287**

**Claim 32:** Parry and Krebs fails to provide a teaching of ensuring that the presentation performed as intended by the designer and that the result of the presentation is reliable. Strub 287 provide a teaching where the system measures the presentation to ensure that it performed as intended and the result of the presentation is reliable (see Krebs '287 FIG. 12, 13 and col. 12:30-45). Therefore, it would have been obvious to include the feature of ensuring that the presentation performed as intended by the designer and that the result of the presentation is reliable, as taught by Strub 287, into the system of Parry '085 because it would ensure the instructor/designer to react to students' concern or difficulties (Strub col. 15:15-20).

**9. Claims 35-36 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable Krebs US 7,029,280, in view of Parry US 6,077,085 and further in view of Turner US 6,633,742 and further in view of Siefert 5,810,605.**

**Claims 35-36 and 44-46:** Parry and Krebs fails to provide a teaching where the step of evaluating the educational content includes of automatically conducting0 experiment to identify instructional setting for the user [**Claim 35, 45 and 46**], determine information relating to one or more group to which the user belongs [**claim 44**] and automatically analyzes the data gathered from the experiment [**Claim 36**].

Siefert '605 provide a teaching where the system conducts experiment and automatically evaluating the data obtain from the experiment to ascertain which settings will be acceptable to the user [**claim 35,36 and 44-45**] and to determine information relating to one or more group to which the user belongs -left brain or right brain thinker- [**Claim 44**] (Siefert '605 col. 3:31-4:7). These setting are based upon the type of learner the student is classified as [**Claim 46**]. Therefore it would have been obvious to include the feature of automatically evaluating the data obtain from the experiment to ascertain which settings will be acceptable to the user, as

taught by Siefert '605, to the system of Parry and Krebs because it would enhance the effectiveness and efficiency of the system with respect to a user (Siefert '605 col. 2:47-59).

***Response to Arguments***

10. The amendment and argument filed on 01/29/2009 have been considered are deemed sufficient to overcome the previous rejection under 35 U.S.C 101 on claims 1-5, 8-9, 12, 14-37, 39-49, 58-63, 65 and 67-70 and the rejection under 35 U.S.C 112 first and second paragraph on claims 1-5, 8-9, 12, 14-37, 39-49, 58-63, 65 and 67-70.

11. Applicant's arguments filed 01/29/2009 have been fully considered but they are not persuasive.

12. The applicant argues that the combination of Krebs, Parry and Turner fails to provide the teaching of " ... wherein the customizing of the educational path comprises identifying the which portion of the educational content and activity are to be combined and presented based on the learner performance data obtained and analyzed by the system, combining the identified portions of the educational content and activities for the learner based upon the learner performance data obtained and analyzed by the system and wherein the sequencing comprises of modifying the combination of the educational content and activities based on the learner performance data." The applicant argues that the Turner reference set forth the teaching where the educational path is customized by the user's selection of which part of educational the user wish to perform. The examiner respectfully disagrees. The examiner takes the position that applicant's argument does not take into account of other possible embodiment that has been described in the Turner reference. An embodiment in the Turner reference describes a system that takes into account of the user's proficiency level and re-arranged the presentation based on the user's proficiency level (see col. 18:30-49 "In one embodiment, the proficiency level is specified as either novice, intermediate or advanced. Alternately, the proficiency level may be specified as range from

novice to advanced having multiple levels of proficiency in between, such as with a numeric scale. By presenting information at an appropriate proficiency level, users are provided the necessary amount of detail. Advanced users do not have to wade through unnecessary introductory detail and novice users are not presented with overly complex information, which they may or may not understand. In an alternate embodiment, the access level specifies a desired proficiency level that controls the sub-topics which are made available to the user for viewing. For example, if the user specifies a proficiency level of novice, then the dynamic presentation manager will only display sub-topics which are appropriate for a novice user"). Since the Turner reference demonstrate the ability of customizing of the educational path comprises identifying the which portion of the educational content and activity are to be combined and presented based on the learner performance data obtained and analyzed by the system, the examiner takes the position that combination of Krebs, Parry and Turner are valid and will be maintained.

13. Secondly, the applicant argues that combination of Krebs, Parry and Turner constitute is not valid since the Turner reference teaches away from Parry. The examiner respectfully disagrees. In order to show teaching away arguments, the disclosure must criticize, discredit, or otherwise discourage the solution claimed. In this particular, neither the Parry reference nor the Turner reference discourage or criticize the combination of the systematic spaced review with having redundant module. As such the examiner takes the position that the examiner takes the position that combination of Krebs, Parry and Turner are valid and will be maintained.

***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. UTAMA whose telephone number is (571)272-1676. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. J. U./
Examiner, Art Unit 3715

/XUAN M. THAI/
Supervisory Patent Examiner, Art Unit 3715